

MEMORANDUM FOR THE RECORD

12 August 1958

SUBJECT: COCOM Exceptions (Briefing of AD/RR)

1. In case the US desires to send embargoed items to the USSR in exchange for scientific instruments not available in the west, or new or unique technological information, the procedure would be:

- a. Secure an export license from the Department of Commerce.
- b. Secure an exception in COCOM.

2. Several types of exceptions are provided by COCOM procedure and it would seem that ad hoc is the one that would apply.

3. The quid pro quo exceptions procedure (given in COCOM Document 471) probably does not apply, despite its deceptively fitting name. This procedure, developed in the early days of COCOM when the Soviet Bloc had only bulk raw materials to export to the west such as coal, manganese, wheat and timber, states that List I and List II items may be exported to the Soviet Bloc... "only when an exporting country would otherwise face the loss of supplies from the Soviet Bloc which are essential to sustain its basic economy and thereby support its defense effort." Cases that have been brought up before COCOM under this procedure usually dealt with a substantial volume of trade, e.g., annual supply of coal and coke (short in the west) for Denmark in exchange for an ice-breaker; bearings made the sine qua non of a trade agreement for West Germany involving delivery from the East of hides, lumber, wheat, manganese, ore not easily procurable in the West, etc.

4. The ad hoc procedure, as its name implies, is not given in detail in COCOM rules and by-laws. Its existence is recognized by the many cases that have been brought up before the committee on this basis, and it was stated in the US position paper, EDAG D-112, that, "The United States recognizes that in the view of other participating governments there may be considerations apart from the type of quid pro quo or prior commitments justification set forth in COCOM Document 471." There are no hard and fast rules governing these cases. They are judged on their merits. An adequate (or greater) exchange advantage from a security point of view is one of the considerations that is always brought up by the requesting country and has to be demonstrated in COCOM to the satisfaction of all participating countries.

5. Obtaining an export license from the Department of Commerce would call for a review of the application by the ACEP structure, or if the case were unduly sensitive from a security point of view, only by the ACEP staff and the appropriate highest officer(s). Program Determination 502 directs the Operating Committee to reject applications for exports of embargoed items, but allows for exceptions provided they are reviewed and are justifiable in light of US security interests.

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